

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Bail Appl..No. 6525 of 2007()

CRIME NO. 119/07 OF MUNDAKAYAM POLICE STATION
CRMP.922/2007 of DISTRICT COURT, KOTTAYAM
.....

PETITIONER/ACCUSED NO.1

PRAVEEN BABU C.R.,
CHELLIMATTOM, MADUKKA P.O.,
MUNDAKAYAM, KOTTAYAM.

BY ADV. SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
FOR THE SUB INSPECTOR OF POLICE, MUNDAKAYAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 6525 of 2007

Dated this the 12th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the first accused. Altogether there were three accused persons in the F.I.R. In the course of investigation, the other two accused have been deleted from the array of accused. The petitioner faces allegation under Section 380 I.P.C. He is the Secretary of a temple committee. The crux of the allegations is that the ornaments of the idol were thieved and attempts were made by the petitioner through some others to sell the ornaments of the idol. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He belongs to Scheduled Caste. He owes allegiance to B.J.P. The other members of the temple committee do not owe allegiance to B.J.P. and they are members of the ruling party. All of them do not belong to Scheduled

Caste/tribe. They are making false allegations against the petitioner that the petitioner has stolen the ornaments of the diety. As a matter of fact, the Poojari of the temple is in possession of the ornaments. The petitioner is not in possession of the ornaments. False and vexatious allegations are being raised against the petitioner by his adversaries, who belong to different castes and different political parties with the transparent intention of vexing and harassing him. He does not deserve to endure the trauma of arrest and detention. He may now be granted anticipatory bail, submits the learned counsel. The learned counsel further submits that the petitioner had filed a complaint under the provisions of the SC/ST (Prevention of Atrocities) Act. That case is also pending investigation before the petitioner.

3. The learned Prosecutor, after taking instructions, submits that the said case under the SC/ST (Prevention of Atrocities) Act was only an attempt made by the petitioner to avoid blame which is raised against him in this crime. Investigation has revealed the falsity of the allegations raised in that crime. Decision has already been taken by the Investigators to refer the said complaint as unsustainable.

4. The learned Prosecutor further submits that there are indications available in this case, which show that the petitioner was having possession of some of the ornaments of the diety and that the petitioner had made attempts through others to dispose of the said ornaments. A thorough and exhaustive interrogation of the petitioner is necessary to recover the stolen articles, which are suspected to be available in the possession of the petitioner. At any rate, the petitioner may not be permitted to arm himself with an order of anticipatory bail. He may be directed to co-operate with the Investigators. He will have to surrender before the Investigating Officer or the learned Magistrate having jurisdiction, submits the learned Prosecutor.

5. The case diary has been perused by me. Considering the nature of the allegations raised, I shall carefully not embark on a detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must

resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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